

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3348 OF 2005

IN

SUIT NO.3003 OF 2005

1.Pooja Madhusudan Meshram & ors. ...Plaintiffs.

VS.

1.Mrs.Leelavati Shravan Meshram
and others. ...Defendants.

Mrs.Mallika A. Ingale,for plaintiffs.

Ms.Smita Gaidhani, for Defendant no.2.

CORAM: D.K.DESHMUKH, J.

DATED: 13th June, 2007 .

P.C. :-

1. Out of the defendants, only defendant no.2 is appearing. It appears from the record that the deceased Madhusudan Shravan Meshram was in service of the State Bank of India, and therefore, the amounts are payable by the State Bank of India to the heirs

of the deceased. It is also stated that the deceased died during the flood, and therefore, his heirs are also entitled to receive compensation from the defendant no.6. It also appears that in so far as the immovable properties are concerned, as far as the record that presently stands, it appears that one flat 8484, bldg.no.217, Pradnyadham Co-op. Hsg. Society, Kannamwar Nagar no.1, Vikhroli (E), Mumbai was in the name of the deceased which is presently occupied by defendant no.2 his mother. It appears from the record that the deceased died leaving behind him as his heirs his mother the defendant no.2, his widow the plaintiff no.1 and his daughters viz. the plaintiff no.2 and defendant no.3. Therefore, there can be no denial that his mother will have share in the flat even if one ignores the nomination alleged to have been made by the deceased in her favour. I have also been informed that the State Bank of India has stated that the heirs will have to take out a succession certificate for being entitled to be paid the money to which the deceased is entitled. In this view of the matter therefore, in my opinion, the following order would meet the ends of justice:-

(1) The plaintiffs and defendant nos. 2 and 3 are restrained from transferring, alienating, creating third party rights in flat no.8484 Bldg.no.217, Pradnyadham co-op.Housing Society, Kannamwar Nagar no.1, Vikroli (East), Mumbai, during the pendency of the suit. The defendant no.2 is further directed not to part with possession of that flat during the pendency of the suit.

2. The defendant nos. 4 and 6 are directed not to pay the amount to which the heirs of the deceased may be entitled unless and until they receive an appropriate order made by the competent Court in relation to the succession certificate. Notice of motion is disposed of.

- - -